

111TH CONGRESS
2D SESSION

H. R. 4532

To provide for permanent extension of the attorney fee withholding procedures under title II of the Social Security Act to title XVI of such Act, and to provide for permanent extension of such procedures under titles II and XVI of such Act to qualified non-attorney representatives.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 2010

Mr. TANNER (for himself, Mr. McDERMOTT, Mr. SAM JOHNSON of Texas, and Mr. LINDER) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To provide for permanent extension of the attorney fee withholding procedures under title II of the Social Security Act to title XVI of such Act, and to provide for permanent extension of such procedures under titles II and XVI of such Act to qualified non-attorney representatives.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Social Security Dis-
5 ability Applicants’ Access to Professional Representation
6 Act of 2010”.

1 **SEC. 2. PERMANENT EXTENSION OF ATTORNEY FEE WITH-**
 2 **HOLDING PROCEDURES TO TITLE XVI.**

3 (a) IN GENERAL.—Section 302 of the Social Security
 4 Protection Act of 2004 (Public Law 108–203; 118 Stat.
 5 519) is amended—

6 (1) in the section heading, by striking “**TEM-**
 7 **PORARY**”; and

8 (2) in subsection (c), by striking “EFFECTIVE
 9 DATE.—” and all that follows through “The amend-
 10 ments” and inserting “EFFECTIVE DATE.—The
 11 amendments”, and by striking paragraph (2).

12 (b) CLERICAL AMENDMENT.—The item relating to
 13 section 302 in the table of contents in section 1(b) of such
 14 Act is amended by striking “Temporary extension” and
 15 inserting “Extension”.

16 **SEC. 3. PERMANENT EXTENSION OF FEE WITHHOLDING**
 17 **PROCEDURES TO QUALIFIED NON-ATTORNEY**
 18 **REPRESENTATIVES.**

19 (a) IN GENERAL.—Section 206 of the Social Security
 20 Act (42 U.S.C. 406) is amended by adding at the end the
 21 following new subsection:

22 “(e)(1) The Commissioner shall provide for the exten-
 23 sion of the fee withholding procedures and assessment pro-
 24 cedures that apply under the preceding provisions of this
 25 section to agents and other persons, other than attorneys,

1 who represent claimants under this title before the Com-
2 missioner.

3 “(2) Fee-withholding procedures may be extended
4 under paragraph (1) to any nonattorney representative
5 only if such representative meets at least the following pre-
6 requisites:

7 “(A) The representative has been awarded a
8 bachelor’s degree from an accredited institution of
9 higher education, or has been determined by the
10 Commissioner to have equivalent qualifications de-
11 rived from training and work experience.

12 “(B) The representative has passed an exam-
13 ination, written and administered by the Commis-
14 sioner, which tests knowledge of the relevant provi-
15 sions of this Act and the most recent developments
16 in agency and court decisions affecting this title and
17 title XVI.

18 “(C) The representative has secured profes-
19 sional liability insurance, or equivalent insurance,
20 which the Commissioner has determined to be ade-
21 quate to protect claimants in the event of mal-
22 practice by the representative.

23 “(D) The representative has undergone a crimi-
24 nal background check to ensure the representative’s
25 fitness to practice before the Commissioner.

1 “(E) The representative demonstrates ongoing
2 completion of qualified courses of continuing edu-
3 cation, including education regarding ethics and pro-
4 fessional conduct, which are designed to enhance
5 professional knowledge in matters related to entitle-
6 ment to, or eligibility for, benefits based on disability
7 under this title and title XVI. Such continuing edu-
8 cation, and the instructors providing such education,
9 shall meet such standards as the Commissioner may
10 prescribe.

11 “(3)(A) The Commissioner may assess representa-
12 tives reasonable fees to cover the cost to the Social Secu-
13 rity Administration of administering the prerequisites de-
14 scribed in paragraph (2).

15 “(B) Fees collected under subparagraph (A) shall be
16 credited to the Federal Old-Age and Survivors Insurance
17 Trust Fund and the Federal Disability Insurance Trust
18 Fund, or deposited as miscellaneous receipts in the general
19 fund of the Treasury, based on such allocations as the
20 Commissioner determines appropriate.

21 “(C) The fees authorized under this paragraph shall
22 be collected and available for obligation only to the extent
23 and in the amount provided in advance in appropriations
24 Acts. Amounts so appropriated are authorized to remain

1 available until expended for administering the pre-
 2 requisites described in paragraph (2).”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 1631(d)(2)(A) of such Act (42
 5 U.S.C. 1383(d)(2)(A)) is amended—

6 (A) in clause (iv), by striking “and” at the
 7 end;

8 (B) in clause (v), by striking the period at
 9 the end and inserting “; and”; and

10 (C) by adding at the end the following new
 11 clause:

12 “(vi) by substituting, in subsection
 13 (e)(1)—

14 “(I) ‘subparagraphs (B) and (C) of
 15 section 1631(d)(2)’ for ‘the preceding pro-
 16 visions of this section’; and

17 “(II) ‘title XVI’ for ‘this title’.”.

18 (2) Section 303(e)(2) of the Social Security
 19 Protection Act of 2004 (Public Law 108–203; 118
 20 Stat. 523) is amended by striking “AND FINAL RE-
 21 PORT” in the heading and by striking the last sen-
 22 tence.

23 (c) EFFECTIVE DATE.—The Commissioner of Social
 24 Security shall provide for full implementation of the provi-
 25 sions of section 206(e) of the Social Security Act (as

- 1 added by subsection (a)) and the amendments made by
- 2 subsection (b) not later than March 1, 2010.

